

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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| In re: |) | |
| |) | Chapter 11 |
| AVAYA INC., <i>et al.</i> , ¹ |) | |
| |) | Case No. 17-10089 (SMB) |
| |) | |
| Debtors. |) | (Jointly Administered) |
| |) | |
| |) | |

**ORDER DENYING MARLENE CLARK’S MOTION FOR ORDER
DETERMINING SURVIVORSHIP BENEFITS UNDER SUPPLEMENTAL
PLAN ARE “RETIREE BENEFITS” UNDER BANKRUPTCY CODE
SECTION 1114(a), COMPELLING COMPLIANCE WITH SECTION 1114(e),
AND APPOINTING AN OFFICIAL COMMITTEE UNDER SECTION 1114(d)**

Upon consideration of *Marlene Clark’s Motion for Order Determining Survivorship Benefits Under Supplemental Plan Are “Retiree Benefits” Under Bankruptcy Code Section 1114(a), Compelling Compliance with Section 1114(e), and Appointing an Official Committee Under Section 1114(d)* [Docket No. 522] (the “Motion”); and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated December 1, 2016; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Avaya Inc. (3430); Avaya CALA Inc. (9365); Avaya EMEA Ltd. (9361); Avaya Federal Solutions, Inc. (4392); Avaya Holdings Corp. (9726); Avaya Holdings LLC (6959); Avaya Holdings Two, LLC (3240); Avaya Integrated Cabinet Solutions Inc. (9449); Avaya Management Services Inc. (9358); Avaya Services Inc. (9687); Avaya World Services Inc. (9364); Octel Communications LLC (5700); Sierra Asia Pacific Inc. (9362); Sierra Communication International LLC (9828); Technology Corporation of America, Inc. (9022); Ubiquity Software Corporation (6232); VPNet Technologies, Inc. (1193); and Zang, Inc. (7229). The location of Debtor Avaya Inc.’s corporate headquarters and the Debtors’ service address is: 4655 Great America Parkway, Santa Clara, CA 95054.

held a hearing on the Motion on May 25, 2017; and after due deliberation thereof; and for the reasons set forth in the *Memorandum Decision Regarding Determination of Survivorship Benefits as "Retiree Benefits"* filed on September 18, 2017 [Docket No. 1182], it is HEREBY ORDERED THAT:

1. The Motion is DENIED.
2. This Order shall be immediately effective and enforceable upon its entry.

New York, New York
Dated: September 20, 2017

/s/ STUART M. BERNSTEIN

THE HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE